

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Fuscelli Pytel Confirmation No.: 7294
Appl. No.: 10/596,490 Group Art Unit: 4131
Filed: 02/09/2007 Examiner: Nelson C. Blakely, III
For: A BASE COMPOSITION FOR PREPARING MULTI-FUNCTIONAL
FORMULATIONS FOR CARE AND PROTECTION OF THE SKIN AND HAIR

Filed Via USPTO EFS-Web

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated October 23, 2008, in which the Examiner has required restriction between Group I, namely Claims 1 – 21, and Group II, namely Claims 22 – 30. Applicant hereby provisionally elects without traverse to prosecute the claims of Group I (Claims 1 - 21) and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

The Examiner has required election of species: (1) a filmogenic agent; (2) an additional emulsifying system; and (3) a sunscreen system.

Applicant hereby provisionally elects the following species:

- (1) a filmogenic agent: cyclomethicone readable on Claims 1-21;
- (2) an additional emulsifying system: fatty alcohol readable on Claims 1-21; and
- (3) a sunscreen system: cinnamic acid readable on Claims 1-21.

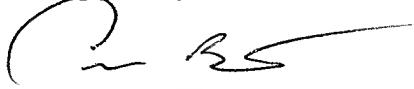
Applicant expressly reserves the right to rejoin non-elected species upon allowance of a generic claim. Applicant also expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions of the unelected species.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Appl No.: 10/596,490
Response dated 11/21/2008
Reply to Restriction Requirement of 10/23/2008

Respectfully submitted,



Timothy J. Balts
Registration No. 51,429

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB
ELECTRONIC FILING SYSTEM OF THE UNITED STATES
PATENT & TRADEMARK OFFICE ON November 21,
2008.